

REQUEST FOR RECONSIDERATION

Reconsideration of the present application is respectfully requested.

The Examiner rejected Claims 14-16, 39-42, 51-52 and 55 under 35 U.S.C. §103(a) as being unpatentable over U.S. Pat. App. Publication No. 2003/0198179 to Koo et al. (hereinafter *Koo*), which is a Samsung reference, in view of U.S. Pat. App. Publication No. 2005/0266848 to Kim. The Examiner rejected Claims 17, 22-24 and 56-59 under 35 U.S.C. §103(a) as being unpatentable over *Koo* in view of *Kim*, and further in view of the background section of the present Specification (hereinafter *Background*). The Examiner rejected Claims 50, 53-54 and 60 under 35 U.S.C. §103(a) as being unpatentable over *Koo* in view of *Kim*, and further in view of “Backoff-based Priority Schemes for IEEE 802.11” to Xiao.

As to the §103(a) rejection of Claims 14-16, 39-42, 51-52 and 55, the Examiner alleged that *Koo* in view of *Kim* teaches or fairly suggests all that is recited in the rejected claims. In response, Applicants respectfully submit that the rejection is improper, for the following reasons.

Applicants note that *Kim* has a filing date of May 6, 2005, which post-dates the present priority date. *Kim* cites one of three provisional applications with a date (May 7, 2004) that pre-dates the present priority date of May 10, 2004. Thus, the application for this provisional date must include the portions of *Kim* relied on in the rejection; otherwise, *Kim* cannot be applied against the present claims, in the manner of the rejection.

After a review of the May 7, 2004 provisional application, it is respectfully asserted that FIG. 3 of *Kim*, which was relied on by the Examiner in the Office Action, at page 3, does not appear in the provisional application. In fact, the figure and related teachings relied on by the Examiner appear to be supported by FIG. E-8 on page 12 of provisional application No. 60/577,186 of *Kim*, which was filed on June 7, 2004, thereby post-dating the present priority date. As such, *Kim* cannot be applied as prior art against the present claims, in the manner of the rejection. Thus, the rejections citing *Kim* are improper and must be withdrawn.

Independent Claims 14, 16, 39 and 55 are believed to be in condition for allowance. Without conceding the patentability per se of dependent Claims 15, 17, 22-24, and 40-42, these are likewise believed to be allowable by virtue of their dependence on their respective independent claims. Accordingly, reconsideration and withdrawal of the rejections of dependent Claims 15, 17, 22-24, and 40-42, is respectfully requested.

Accordingly, all of the claims pending and under examination in the Application, namely, Claims 14-17, 22-24, 39-42 and 50-60, are believed to be in condition for allowance. Should the Examiner believe that a telephone conference or personal interview would facilitate resolution of any remaining matters, the Examiner may contact Applicants' attorney at the number given below.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Paul J. Farrell", is written over a horizontal line.

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